

Joint Standing Committee on Labor

LD 71

An Act to Ban Strikebreakers

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PINEAU	ONTP	

LD 71 proposed to require that a contract between an employer and replacement workers must include a statement that when the strike is settled or employees offer unconditionally to return to work, the replacement workers will not be retained in preference to the returning workers.

LD 71 was reported out of committee during the 1st Regular Session with a divided report (OTP-AM; ONTP), then referred back to the Labor Committee and carried over. During the 2nd Regular Session, a majority committee amendment based on a 1991 bill (LD 511) was proposed. The amendment would have required inspection of certain industrial worksites that contain hazardous materials or equipment if more than 50% of the workforce at the site had less than 6 months of experience on the job. The committee voted OTP-AM; ONTP on the proposal, but later reconsidered and voted ONTP unanimously.

LD 550

**An Act Regarding Employment of Workers' Compensation Board
Hearing Officers and Mediators**

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS SMITH W	ONTP	

LD 550 proposed to transfer the authority to hire workers' compensation hearing officers and mediators from the Workers' Compensation Board to the board's Executive Director.

See LD 1909 (Public Law 2003, chapter 608), which restructures the Workers' Compensation Board to a 7-member board, including the Executive Director as a member. The odd number of members is designed to prevent deadlock on board decisions including decisions on appointing or reappointing hearing officers.

LD 561

**An Act To Improve Standards for Public Assistance to Employers
in the State**

**DIED ON
ADJOURNMENT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HUTTON EDMONDS	OTP-AM MAJ ONTP MIN	

LD 561 proposed to require recipients of certain state and local economic development incentives to meet certain criteria regarding wages, benefits and compliance with federal, state and local laws. The economic development incentive programs include tax increment financing, tax credits or tax reimbursement for investments and creation of jobs, and grants under the Governor's Training Initiative. Recipients under some of the programs would be required to pay a living wage to employees and provide retirement and health insurance benefits. Recipients under

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other programs would be required to give all their employees the same wages and benefits as they give to qualified employees (employees whose hiring qualifies the employer for the economic development incentive).

Committee Amendment "A" (H-820) proposed to move the language to a more appropriate location in the Maine Revised Statutes. The amendment proposed to define "living wage" as a wage that would provide sufficient funds to meet the annual basic needs budget developed pursuant to law by the State Planning Office. It also proposed to require that the group health insurance provided by a business receiving an economic development incentive must be at least as comprehensive and beneficial as Dirigo Health Insurance. The amendment proposed to add a requirement that businesses must allow employees to return to their jobs following a strike or lockout. The amendment proposed to add a provision to the law governing the Business Equipment Tax Reimbursement program to deny reimbursement to a company that is in bankruptcy.

LD 575

An Act To Encourage Workers' Compensation Dispute Resolutions

INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W	OTP-AM MAJ	
EDMONDS	ONTP MIN	

LD 575 proposed to authorize the Workers' Compensation Board to levy a \$500 surcharge on an employer if, at the conclusion of mediation, the employee obtained or retained more benefits than the employer had offered prior to mediation. It also proposed to authorize a \$1,500 surcharge on an employer if, at the conclusion of a formal hearing, the employee obtained or retained more benefits than the employer had offered prior to the hearing. The surcharges would be deposited in a dedicated fund to be used to defray the costs of the workers' compensation advocate program.

Committee Amendment "B" (H-639) proposed to delete language allowing the Workers' Compensation Board to impose surcharges on employers who do not prevail at mediation sessions or formal hearings. Instead, the amendment proposed to require the Board to assess a \$1,000 user fee against an employer if, following a formal hearing, the employee obtained or retained more benefits than the employer offered prior to the formal hearing.

LD 673

An Act To Increase Maine's Minimum Wage

PUBLIC 697

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HATCH PH	OTP-AM MAJ	S-359
PATRICK	ONTP MIN	S-491 HATCH PH S-563 CATHCART

LD 673 proposed to increase the state minimum wage to \$6.65 per hour beginning October 1, 2003 and to \$7 per hour beginning October 1, 2004. The state minimum wage is currently \$6.25 per hour.

Committee Amendment "A" (S-359) proposed to change the starting date for increases in the minimum wage. The amendment proposed to increase the minimum wage to \$6.65 on October 1, 2004 and to \$7 on October 1, 2005.

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Senate Amendment "A" (S-491) proposed to replace the bill. It proposed to increase the minimum wage to \$6.35 per hour beginning October 1, 2004 and \$6.50 per hour beginning October 1, 2005.

Senate Amendment "A" to Committee Amendment "A" (S-563) proposed that the Department of Labor not reprint the regulation of employment poster immediately to reflect the change in the minimum wage. It proposed to allow the Department to modify and redistribute the printed notice when it becomes necessary to print additional notices due to an insufficient supply of such notices or due to future changes in law.

House Amendment "A" (H-843) proposed to require that employees under 19 years of age must be paid at a rate no lower than 75% of regular minimum wage. (Not adopted)

House Amendment "B" (H-870) proposed to require that employees under 19 years of age must be paid at a rate no lower than the federal minimum wage. (Not adopted)

Enacted Law Summary

Public Law 2003, chapter 697 increases the state minimum wage from \$6.25 per hour to \$6.35 per hour beginning October 1, 2004 and \$6.50 per hour beginning October 1, 2005.

LD 718	An Act To Create a New Pension System for Newly Hired Teachers and State Employees	ONTP
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Sponsor(s)
MILLS P

Committee Report
ONTP

Amendments Adopted

LD 718 was a concept draft that proposed to create a new retirement program for teachers and state employees hired on or after January 1, 2004. Instead of being covered by the existing state employee and teacher plan of the Maine State Retirement System, new hires would be required to participate in Social Security and would also be covered by a newly created defined benefit plan.

LD 752	Resolve, Directing the Department of Labor To Develop the Family Security Fund To Implement the Recommendations of the Committee to Continue to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families	ONTP
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Sponsor(s)

Committee Report
ONTP

Amendments Adopted

LD 752 was based on the recommendations of the Committee to Continue to Study the Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families. It proposed to require the Department of Labor to develop the Family Security Fund, an insurance program for temporary disabilities.

See the description of Joint Order, S.P. 673, which authorized the Labor Committee to report out legislation regarding sick leave benefits.

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LD 880

Resolve, Directing the Department of Labor to Collect Certain Data Involving Retirees Receiving Social Security or Other Pensions

RESOLVE 111

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HUTTON	OTP-AM MAJ	H-633
EDMONDS	ONTP MIN	H-715 HUTTON

LD 880 proposed to eliminate the pension offset against unemployment benefits for persons who receive Social Security or other pensions, provided the person contributed at least 50% of the contributions to that pension. If the person contributed some amount to the pension, but not 50%, the offset would be made in proportion to the employee's contribution.

Committee Amendment "B" (H-633) proposed to clarify that a Social Security benefit is included among the category of pensions that are not offset against unemployment compensation benefits.

House Amendment "A" to Committee Amendment "B" (H-715) proposed to change the bill to a resolve directing the Department of Labor to collect data on the number of persons whose unemployment benefits are reduced as a result of the pension offset.

Enacted Law Summary

Resolve 2003, chapter 111 directs the Department of Labor to collect data on the number of persons who are affected by the so-called "pension offset" against unemployment benefits, i.e., the reduction of unemployment benefits for a person who receives Social Security benefits or certain other pensions or annuities. The Resolve requires the Department to report the data to the Joint Standing Committee on Labor by November 30, 2004.

LD 919

An Act To Require Public Improvement Projects Contractors and Subcontractors To Meet Certain Criteria

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPLESSIE HATCH PH	ONTP	

LD 919 proposed to enact criteria that must be met by any contractor or subcontractor performing work on a public improvement project. The bill proposed to require that the contractor or subcontractor comply with prevailing wage laws, provide employer-paid health and hospitalization benefits to employees, maintain apprenticeship programs and properly classify employees for purposes of workers' compensation, unemployment and other tax purposes.

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LD 1150

An Act To Protect the Rights of State Workers

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT	OTP-AM MAJ	
SMITH W	ONTP MIN	

LD 1150 proposed to extend to workers hired by the State through long-term contracts or long-term grants the same benefits as state employees receive.

Committee Amendment "A" (S-460) proposed to change the rules for implementing the new requirement from "routine technical" to "major substantive." It also proposed to require the Department of Administrative and Financial Services, Bureau of Human Resources to provisionally adopt the rules by February 15, 2005 so that they may be submitted to the Legislature for review.

LD 1318

An Act To Promote the Public Interest by Providing for Reasonable Rates of Compensation for Forest Products Harvesting and Hauling Services

PUBLIC 670

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH W	OTP-AM MAJ	H-848
MARTIN	ONTP MIN	H-864 SMITH W

LD 1318 proposed to allow harvesters and haulers of forest products to collectively bargain with forest landowners over compensation and the terms of contracts under which the harvesters and haulers perform services for the landowners. It proposed to require a forest landowner to bargain in good faith with associations representing 51% or more of the harvesters or haulers that have a prior course of dealing with the forest landowner. The bill proposed to create a Forest Products Bargaining Board to implement the Act, set forth a procedure for mediation and arbitration if the parties cannot agree on their own and list prohibited unfair practices. The bill was based on existing law allowing agricultural producers to form associations to bargain with handlers of agricultural products.

LD 1318 was reported out of committee during the 1st Regular Session with a divided report (OTP-AM; ONTP), but was recommitted to committee and carried over to the 2nd Regular Session. In the 2nd Session, LD 1318 was again reported out of committee on a divided report and recommitted to committee. The majority report was **Committee Amendment "B" (H-440)**. Finally, LD 1318 was reported out of committee with a divided report, with **Committee Amendment "C"** described below as the majority report. Committee Amendment "C" was adopted, and further amended by House Amendment "A".

Committee Amendment "C" (H-848) proposed to replace the bill. Rather than allowing harvesters and haulers to collectively bargain with forest landowners to establish rates of compensation, this amendment proposed to require a state forestry rate proceeding panel to establish rates of compensation, based on factors set forth in the statute. The amendment proposed to authorize forest products haulers and harvesters to organize associations and to negotiate collectively with certain landowners, provided their activities are preparatory to and for the purpose of an authorized rate-setting proceeding and provided that any tentative agreement was reviewed and approved by the rate-setting panel. A forest landowner or any group of 3 or more harvesters or haulers would be permitted to file a

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petition for determination of rates. The proposal would apply to landowners that own at least 400,000 acres in a labor market area.

House Amendment "A" to Committee Amendment "C" (H-864) proposed to clarify that rates set by the forestry rate proceedings panel apply only to a forest landowner, as defined in Committee Amendment "C," not to other owners of forest land.

See also LD 1964, Public Law 2003, chapter 674, which limits application of the rate-setting process.

Enacted Law Summary

Public Law 2003, chapter 670 establishes a process by which a state panel, upon petition, sets rates of compensation for harvesting and hauling services provided under contract on certain forestlands in the State. The rate-setting procedure applies only to services performed on lands owned by entities that own or control more than 400,000 acres of forest land in a labor market area. (See also, LD 1964, PL chapter 674 which further limits application of the law)

Chapter 670 sets forth legislative findings to support the need for the State to displace existing market forces in such situations, where overwhelming market power of such landowners results in the absence of a sufficiently competitive market.

A forest landowner subject to the law, or a group of 3 or more harvesters or haulers may begin a rate-setting process by filing a petition with the forestry rate proceeding panel created in the law. The panel is established under the State Board of Arbitration and Conciliation, and consists of 3 members: one neutral member who is a representative of the public on the State Board of Arbitration and Conciliation, one member representing the interests of forest landowners and one member representing the interests of harvesters and haulers. Members are appointed by the Governor. The cost of panel proceedings will be borne equally by parties to the rate-setting process. Panel decisions are subject to judicial review in the same manner as for other final agency actions. The law sets forth a list of factors for the panel to consider in setting rates, e.g., the impact of the rates on the competitive position of the landowner, harvester and hauler expenses, fair rates of return on investment, species of tree and method of harvesting, and environmental laws.

The law authorizes harvesters and haulers to form associations to participate in the rate determination proceedings. Those associations may also negotiate with forest landowners prior to the rate determination proceeding, but any tentative agreement reached in those negotiations must be reviewed and approved by the rate-setting panel.

LD 1380

An Act To Promote Safety and Fair Labor Practices for Forestry Workers

PUBLIC 616

Sponsor(s)
FAIRCLOTH
EDMONDS

Committee Report
OTP-AM

Amendments Adopted
H-810

LD 1380 proposed to enact provisions relating to safety and working conditions for forestry workers engaged on a temporary or seasonal basis to perform reforestation activities in the Maine woods, such as clearing brush and thinning and planting trees.

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The bill proposed to require employers to offer housing, at no cost to the worker, near the work site to any forestry worker whose permanent residence is more than 50 miles from the work site and proposed to prohibit employers and others from making unjust or unreasonable profits by selling goods or services to workers in employer-provided housing. The bill proposed to require employers to provide safe transportation to and from the work site, at no cost to the worker, and require that the transportation meet certain safety standards. The bill proposed to require the employer to provide and pay for protective clothing and gear and the equipment necessary to perform the work.

The bill proposed to prohibit any person from discriminating or retaliating against any person who exercises the rights or protections provided by the new law or who files a complaint or participates in a proceeding under the law. The bill proposed civil penalties of up to \$2,500 per violation of the law, and up to \$50,000 for egregious violations. The bill also proposed to provide a private right of action for aggrieved persons and declare void any attempt to waive or modify the workers' rights under the law. All persons who are considered employers of a worker would be jointly and severally liable for violations of the law.

Committee Amendment "A" (H-810) proposed to remove provisions of the bill that imposed requirements regarding housing and equipment and retain provisions relating to transportation. It proposed to modify the definition of "employer" and modify the safety provisions of the bill.

The amendment proposed to add a requirement that the forestry industry report on a safety program to the joint standing committee of the Legislature having jurisdiction over labor matters. Finally, it proposed to require the Commissioner of Labor to convene a working group of interested persons to develop a system of collecting and reporting data for the purpose of improving the safety of forestry workers.

Enacted Law Summary

Public Law 2003, chapter 616 requires employers to provide safe transportation of certain forestry workers from their lodgings to their work sites, at no cost to the workers. The law applies to workers engaged on a temporary or seasonal basis to perform reforestation activities, such as clearing brush and thinning and planting trees. The transportation must meet the standards provided in the federal Migrant and Seasonal Agricultural Worker Protection Act, as well as additional standards, including a requirement for seat belts, first aid kits and emergency communication equipment. It limits the amount of time a worker can drive, prohibits use of vehicles other than buses that carry more than 11 persons, and prohibits attachment of equipment that interferes with operation of the vehicle.

Public Law 2003, chapter 616 prohibits discrimination or retaliation against any person who exercises the rights or protections provided by the new law or who files a complaint or participates in a proceeding under the law. It provides for civil penalties of up to \$1,000 per violation, enforceable by the Attorney General.

Public Law 2003, chapter 616 also requires the forestry industry to report on a safety program to the joint standing committee of the Legislature having jurisdiction over labor matters. Finally, it requires the Commissioner of Labor to convene a working group of interested persons to develop a system of collecting and reporting data for the purpose of improving the safety of forestry workers.

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LD 1618 **An Act To Clarify the Employment Status of Court Reporters,
Stenographers and Videographers** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATSON	ONTP	

LD 1618 proposed to add court reporters, stenographers and videographers to the list of persons whose services are not covered by the unemployment compensation law.

LD 1656 **An Act To Establish the Administrative Operating Budget for the
Maine State Retirement System for the Fiscal Year Ending June 30,
2005** **P & S 34
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-665

LD 1656 proposed to allocate \$9,959,245 for administrative operating expenses for the Maine State Retirement System for fiscal year 2004-05 and to approve collective bargaining agreements between the MSRS and 3 bargaining units of the Maine State Employees Association for the period November 1, 2003 to October 30, 2006.

Committee Amendment "A" (H-665) proposed to incorporate a fiscal note.

Enacted Law Summary

Private and Special Law 2003, chapter 34 allocates \$9,959,245 for administrative operating expenses for the Maine State Retirement System for fiscal year 2004-05. MSRS operating costs are paid for through contributions from the General Fund, non-General Fund accounts and Participating Local Districts such as municipalities. P&SL 2003, chapter 34 also approves collective bargaining agreements between the MSRS and 3 bargaining units of the Maine State Employees Association for the period November 1, 2003 to October 30, 2006.

LD 1687 **An Act To Protect the Privacy of Home Information of Maine State
Retirement System Members, Benefit Recipients and Staff** **PUBLIC 632**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM	S-442

LD 1687 proposed to provide that records in the possession of the Maine State Retirement System containing home contact information, such as home addresses and telephone numbers, of its members, benefit recipients, trustees, nontrustee members of board committees and staff are confidential and not subject to disclosure as a public record.

Committee Amendment "A" (S-442) proposed to remove members of the Board of Trustees of the Maine State Retirement System and nontrustee members of board committees from the language making home contact

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information confidential. It also proposed to make home contact information of a member or benefit recipient a public record if the member or benefit recipient has signed a waiver of the confidentiality of that information.

Enacted Law Summary

Public Law 2003, chapter 632 provides that records in the possession of the Maine State Retirement System containing home contact information, such as home addresses and telephone numbers, of its members, benefit recipients and staff are confidential and not subject to disclosure as a public record, except that home contact information of a member or benefit recipient may be disclosed if the member or benefit recipient signs a confidentiality waiver.

LD 1688

An Act To Clarify the Law Regarding Interpreting Services for People Who Are Deaf or Hard-of-hearing

PUBLIC 685

Sponsor(s)
EDMONDS
NORBERT

Committee Report
OTP-AM

Amendments Adopted
S-430

LD 1688 proposed to clarify the law regarding interpreting services that are available for people who are deaf or hard-of-hearing, when they are involved in legal proceedings.

Committee Amendment "A" (S-430) proposed to rewrite the substantive section of the bill to clarify the qualifications required for persons who interpret for the deaf or hard-of-hearing in legal settings. It proposed a transitional period within which interpreters can achieve the qualifications to be considered qualified legal interpreters. It also proposed to change the fiscal year in which funds are transferred to the Judicial Department from fiscal year 2003-04 to fiscal year 2004-05.

Enacted Law Summary

Public Law 2003, chapter 685 clarifies the requirement for courts and governmental agencies to provide qualified legal interpreters for persons who are deaf or hard-of-hearing, when the personal or property interest of the deaf or hard-of-hearing person is at issue in a court or agency proceeding. It requires the presiding officer of the legal proceeding to appoint qualified legal interpreters to meet the needs of the deaf or hard-of-hearing person, sets forth the standards for an interpreter to be considered qualified to interpret in legal settings and requires the court or agency to pay the costs of the interpreter. It also makes confidential certain communications between a legal interpreter and the interpreter's client, and requires the interpreter to take an oath regarding true interpretation of communications. The law requires the Bureau of Rehabilitation Services within the Department of Labor to maintain a list of qualified legal interpreters.

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LD 1721 **An Act To Amend the Fees Paid to Attorneys for Lump-sum Settlements in Workers' Compensation Cases** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT PATRICK	ONTP	

LD 1721 proposed to amend the limit on attorney's fees for lump-sum settlements in workers' compensation. Under current law, the limit is a graduated percentage of the settlement ranging from 5 to 10 percent of the amount. LD 1721 proposed to limit the amount to 25% of the settlement.

LD 1722 **An Act To Clarify the Prevailing Wage Law** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS SMITH W	OTP-AM MAJ ONTP MIN	

LD 1722 proposed that the prevailing wage rate that must be paid on publicly funded construction projects under the jurisdiction of the Davis-Bacon or other federal act is the higher of the federal and state prevailing wage rates.

Committee Amendment "A" (S-413) proposed to delay the effective date of the bill until July 1, 2005.

LD 1733 **An Act To Clarify the Severance Pay Law** **PUBLIC 624**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CLARK DAVIS P	OTP-AM	H-815

LD 1733 was a concept draft that proposed to ensure that severance pay is paid to the former employees of Great Northern Paper Company, which filed for Chapter 11 bankruptcy protection on January 9, 2003.

Committee Amendment "A" (H-815) proposed to amend the severance pay law to clarify that severance pay liability imposed by state law is mitigated as a result of a contract providing for severance pay only if the contractual severance pay has actually been paid pursuant to the terms of the contract. The amendment proposed to apply to all claims for severance pay that have not been paid, adjudicated or finally resolved and to those claims that are pending on the date of enactment, including, but not limited to, claims by the former employees of Great Northern Paper Company.

Enacted Law Summary

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Public Law 2003, chapter 624 clarifies that severance pay liability imposed by state law is mitigated when a person is entitled to severance pay under a collective bargaining agreement or other contract only if the contractual severance pay has actually been paid.

LD 1760

An Act To Amend the Random Drug Testing Laws

PUBLIC 547

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO MARTIN	OTP-AM	H-711

LD 1760 proposed to amend the laws regarding random or arbitrary substance abuse testing of employees. It proposed that, in workplaces with 50 or more employees, if the employer chooses to require random or arbitrary substance abuse testing, then all employees of the employer who are not covered under a collective bargaining agreement would be subject to the random or arbitrary testing. Such employers would be required to form an employee committee to establish testing policies, and the Department of Labor would select employees to be tested.

Committee Amendment "A" (H-711) proposed to replace the bill. It proposed to allow employers of 50 or more employees to impose random or arbitrary testing programs that apply to all employees, except those covered by a collective bargaining agreement, as an alternative to other random or arbitrary testing programs. If an employer chooses to exercise the option, the employer would be required to form an employee committee to establish policies for the testing program, which must include a medical professional trained in substance abuse testing. A person or entity independent from employer influence, such as a medical review officer, would make the determination of which employees would be tested at any one time. Unionized employees would be included in such a testing program only if inclusion is part of their collective bargaining agreement.

Enacted Law Summary

Public Law 2003, chapter 547 amends the State's workplace substance abuse testing laws to provide employers of 50 or more nonunionized employees a 3rd option for establishing a random or arbitrary substance abuse testing program. Under current law, random or arbitrary testing programs may be imposed only on persons in safety-sensitive positions or pursuant to a collective bargaining agreement. This law allows certain employers a 3rd option: a random or arbitrary substance abuse testing program that applies to all employees, regardless of position. Unionized employees are included in such a testing program only if inclusion is part of their collective bargaining agreement. Employers are required to form an employee committee to write the policies regarding this type of testing program. Selection of individuals to be tested must be made by an entity independent from employer influence.

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LD 1792

Resolve, Directing the Department of Labor and the Department of Behavioral and Developmental Services, Office of Substance Abuse To Study the Prevalence of Drug and Substance Abuse

RESOLVE 106

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PERRY A	OTP MAJ	
EDMONDS	ONTP MIN	

LD 1792 proposed to direct the Department of Labor and the Department of Behavioral and Developmental Services, Office of Substance Abuse to conduct a study to determine the extent of drug, alcohol and substance abuse among the adult population of Maine and report back to the Legislature no later than November 3, 2004.

Enacted Law Summary

Resolves 2003, chapter 106 directs the Department of Labor and the Department of Behavioral and Developmental Services, Office of Substance Abuse to conduct a study to determine the extent of drug, alcohol and substance abuse among the adult population of this State and report back to the Legislature no later than November 3, 2004.

LD 1810

An Act To Amend the Laws Concerning Optional Membership for Participating Local Districts in the Maine State Retirement System

PUBLIC 630

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RICHARDSON J	OTP-AM	H-790
EDMONDS		H-818 SMITH W

LD 1810 proposed to amend the laws concerning optional membership for participating local districts in the Maine State Retirement System to parallel changes made for state employees in the system in 2003.

Committee Amendment "A" (H-790) proposed to replace the bill with language that more accurately achieves the purpose of the original bill. It proposed to make the law regarding purchase of service credit for optional members the same for participating local district optional members as it is for optional members in the other retirement programs administered by the Maine State Retirement System.

House Amendment "A" to Committee Amendment "A" (H-818) proposed to make a technical correction and to reformat the subsection to improve readability.

Enacted Law Summary

Public Law 2003, chapter 630 amends the laws concerning the purchase of service credit by employees whose membership in the Maine State Retirement System (MSRS) is optional ("optional employees"), to remove limitations on such purchases. It gives optional employees of participating local districts (PLDs) the same rights as other optional employees to purchase credit for the time during which they elected not to join the MSRS. The PLD

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employee will be required to pay the full actuarial cost of the additional service credit, except in specified circumstances.

Public Law 2003, chapter 630 also clarifies that optional employees who are teachers, state employees or PLD employees who withdraw from the MSRS may withdraw their accumulated contributions, regardless of whether they have terminated employment. If those members later rejoin the Maine State Retirement System, they may repurchase service credit by repaying their accumulated contributions plus interest. Chapter 630 deletes the current 2-year waiting period before persons may repay withdrawn contributions.

LD 1814 An Act Concerning Disability Retirement Benefits under the Maine State Retirement System PUBLIC 675

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY	OTP-AM	H-710

LD 1814 proposed to amend the laws regarding disability retirement benefits under the Maine State Retirement System to state that disability retirement benefits cease when a person performs work resulting in annual earnings that exceed \$20,000 or 80% of the recipient's average final compensation at retirement, whichever is greater. Under current law, disability retirement benefits are discontinued after a certain number of years if the person receiving the benefit has the ability to engage in work that would result in earnings of the 80% figure, regardless of whether the person is actually performing such work.

Committee Amendment "A" (H-710) proposed to change the language to preserve the original method of making the determination, i.e., basing it on the ability to perform work, not the actual performance. The amendment proposed to clarify the language in the bill that changes the amount of earnings that indicate the ability to engage in substantially gainful activity. Under the bill, as amended, that amount would be \$20,000 or 80% of the person's average final compensation at retirement, whichever is greater, adjusted for increases in the cost-of-living. Finally, the amendment proposed to remove the retroactivity provision.

Enacted Law Summary

Public Law 2003, chapter 675 amends the law regarding disability retirement benefits for the state and teacher retirement plan and the participating local district plan of the Maine State Retirement System. It provides that, after receipt of benefits for 5 years, disability retirement benefits are discontinued if the person has the ability to perform work resulting in the greater of \$20,000 per year or 80% of the person's average final compensation, adjusted for increases in the cost of living. Currently, such benefits are discontinued when the person is able to earn the 80% amount, even if that amount is less than \$20,000.

LD 1815 An Act To Establish the Maine Jobs, Trade and Democracy Act PUBLIC 699

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLWELL	OTP-AM MAJ	H-783
EDMONDS	OTP-AM MIN	H-801 SMITH W

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LD 1815 proposed to create the Citizen Trade Policy Commission to assess the legal and economic impact of international trade agreements, hold public hearings throughout the State, interact with elected leaders in Maine and other states and make recommendations to the Legislature, the congressional delegation and United States trade negotiators. The Commission would be a permanent 17-member commission including legislators, the Attorney General and representatives of the public. LD 1815 proposed that the commission conduct public hearings in at least 5 different locations in its first year and 3 in each subsequent year.

Committee Amendment "A" (H-783) proposed to change 3 of the members of the Citizen Trade Policy Commission and add 5 ex officio nonvoting members to the commission. It proposed to allow members to appoint alternate members to serve on a temporary basis. The amendment proposed to reduce the number of required public hearings to 2 each year. It proposed to specify cochaIRS of the commission. It also proposed to change compensation so that Legislators receive per diem and expenses for attendance at meetings and other members receive reimbursement of expenses if they are not otherwise reimbursed for those costs. The amendment proposed to allow the commission to seek and accept outside funding to assist the commission in carrying out its assigned duties.

House Amendment "A" (H-801) proposed to remove the emergency preamble and emergency clause from the bill.

Committee Amendment "B" (H-784), the minority report of the committee, proposed to change the membership of the Citizen Trade Policy Commission. It proposed to reduce the number of Legislators from 6 to 4 and reduce the number of other members from 11 to 7. It proposed to allow members to appoint alternate members to serve on a temporary basis. The amendment proposed to reduce the number of required public hearings to 2 each year instead of 5 in the first year and 3 in subsequent years. It also proposed to change compensation so that Legislators receive per diem and expenses for attendance at meetings, and other members receive reimbursement of expenses if they are not otherwise reimbursed for those costs. (Not adopted)

Enacted Law Summary

Public Law 2003, chapter 699 creates the Citizen Trade Policy Commission, a 22-member commission to assess and monitor the legal and economic impacts of trade agreements on state and local laws, working conditions and the business environments, to receive public comment on impacts and to make policy recommendations regarding such impacts.

Joint Standing Committee on Labor

LD 1817

An Act To Notify MaineCare of Workers' Compensation Settlements

ONTP

Sponsor(s)
BRENNAN

Committee Report
ONTP

Amendments Adopted

LD 1817 proposed to add claims for reimbursement of medical expenses paid by Medicaid to the list of workers' compensation claims that are assignable and subject to attachment.

LD 1836

An Act To Amend the Laws Governing Purchase of Military Time Served under the Maine State Retirement System

PUBLIC 693

Sponsor(s)
DUPREY G
STANLEY

Committee Report
OTP-AM

Amendments Adopted
H-839

LD 1836 proposed to allow a member of the Maine State Retirement System who was awarded an Armed Forces Expeditionary Medal to purchase service credit by paying the contribution rate in effect during the member's period of service in the United States Armed Forces, rather than by paying the full actuarial cost of the service credit. LD 1836 also proposed to replace a reference to "federally recognized period of conflict," which was contained in a section of law that was repealed.

Committee Amendment "A" (H-839) proposed to replace the bill. Under current law, a Maine State Retirement System member can purchase service credit for military service by paying the contributions that would have been paid at that time, plus interest (a subsidized rate) if the person served during a federally recognized period of conflict. The term "federally recognized period of conflict" was contained in the Maine Revised Statutes, Title 37-B and served as the definition for purposes of the retirement laws. In 1999, that definition was repealed in Title 37-B. This amendment proposed to enact a definition similar to that from Title 37-B as amended immediately prior to its repeal.

The amendment also proposed to allow recipients of the Armed Forces Expeditionary Medal and several other campaign and expeditionary medals and awards to purchase service credit at the subsidized rate, but only if an appropriation is made to the retirement system to cover the subsidy. The retirement system would report annually to the Legislature on the amounts needed to subsidize purchases by members who have applied and been determined eligible during the prior calendar year to make such a purchase.

The amendment proposed to clarify the intent of legislation enacted last session regarding the maximum amount of service credit that may be granted for periods of service in the armed forces.

Enacted Law Summary

Public Law 2003, chapter 693 clarifies and amends the law setting forth the cost of purchasing retirement service credit for periods of military service prior to a person becoming a member of the Maine State Retirement System.

Joint Standing Committee on Labor

It expands the list of persons who can purchase service credit at a subsidized rate (lower than the actuarial cost) to include persons who received certain types of combat awards, regardless of whether the person served during a “period of federally recognized conflict,” such as the Vietnam War or the Gulf War. Such award recipients may purchase service credit under the new provision only if funds have been appropriated to the MSRS to cover the cost of the subsidy. The law requires the MSRS to report annually to the Legislature on the funds needed to subsidize purchases for persons who applied under the new provision in the prior calendar year.

LD 1904

Resolve, To Increase Eligibility for Consumer-directed Personal Care Assistance Services To Promote Independence for Maine Citizens

INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAGGETT	OTP-AM MAJ	
KANE	ONTP MIN	

LD 1904 proposed to direct the Department of Labor, Bureau of Rehabilitation Services to adopt rules by July 1, 2004 to increase eligibility for and access to the consumer-directed personal care assistance services program. It proposed to require the rules to provide for services at 3 levels, encourage the use of consumer-directed programs through incentives and marketing, allow for surrogate decision-makers, increase wages for direct-care workers and provide access to Dirigo Health Insurance and provide for 3rd-party review of consumer evaluations, as well as requiring the rules to include other matters.

Committee Amendment "A" (S-465) proposed to direct the Department of Labor to make rules only for the state-funded part of the consumer-directed personal care assistance program, not for the Medicaid-funded part of the program.

The Supplemental Budget bill, LD 1919, PL 2003, chapter 673 moved the Medicaid-funded portions of the CD-PAS program to the Department of Human Services and incorporated many of the provisions of LD 1904.

LD 1909

An Act To Promote Decision Making Within the Workers' Compensation Board

**PUBLIC 608
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM	S-458
TREADWELL		

LD 1909 proposed to change the Workers' Compensation Board from an 8-member Board evenly divided between representatives of labor and management, to a 7-member Board. The bill proposed that the Board consist of 3 representatives of labor; 3 representatives of management; and the executive director of the board. The executive director would be appointed by the Governor subject to confirmation by the Legislature and would serve at the pleasure of the Governor. The executive director also would serve as chair of the board.

Committee Amendment "A" (S-458) proposed to add a fiscal note to the bill.

Joint Standing Committee on Labor

Enacted Law Summary

Public Law 2003, chapter 608 amends the structure of the Workers' Compensation Board. Under current law, the board has 8 members – 4 representing labor and 4 representing management. PL 2003, chapter 608 provides for a 7-member board – 3 representing labor, 3 representing management and the Executive Director of the Board. The Executive Director of the Board will be appointed by the Governor, subject to confirmation by the Legislature and will serve at the pleasure of the Governor. Under current law, the Workers' Compensation Board appoints the Executive Director. The law provides for transition from the current board structure to the new structure. This law was enacted as an emergency measure effective April 8, 2004.

LD 1919	An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005 (Parts Q, UU, DDD and WW)	PUBLIC 673
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<u>Sponsor(s)</u> BRANNIGAN CATHCART	<u>Committee Report</u> See AFA Comm. Summary	<u>Amendments Adopted</u> See AFA Comm. Summary
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LD 1919, a Supplemental Appropriations bill for fiscal years 2003-04 and 2004-05, proposed the following Parts relating to labor and retirement:

1. Part Q relates to the Occupational Safety Loan program, through which loans and grants may be made to employers to finance safety improvements. Funding for the program was repealed in prior appropriations bills; LD 1919 proposed to repeal the language establishing the program and to specify that funds resulting from repayment of outstanding loans must be deposited in the Safety Education and Training Fund at the Department of Labor. It also proposed to provide for payment of administrative costs for the remaining outstanding loans.
2. Parts UU and DDDD relate to health insurance for retired state employees and others.

Part UU proposed that retiree health insurance for state employees and teachers be administered on a cost-reimbursement basis of funding and accounting, rather than a pre-funded actuarial basis, beginning June 30, 2005. It proposed that the excess equity in the fund resulting from efforts to actuarially fund retiree health insurance be distributed back to the General Fund and other funds that made contributions resulting in that excess equity.

Part DDDD proposed that the State makes a solemn contractual commitment to certain state and local employees that (1) eligibility criteria for retired employees and their family members to participate in the state's group health plan would be no more restrictive during retirement than at the time the employee vested; (2) the State contribution toward the cost of retiree health insurance, as a percentage of total cost, would be no less than the percentage offered at the time of vesting; and (3) the group health plan offered by the State to retirees will be substantially similar to that offered at the same time to active employees. The provision does not propose to require that health insurance be offered, but if health insurance is offered to active employees, a substantially similar package must be offered to retirees.

Joint Standing Committee on Labor

3. Part WW proposed to transfer the 2 Medicaid-funded programs for consumer-directed personal care assistance (CD-PAS) from the Department of Labor to the Department of Human Services. The state-funded CD-PAS program remains with the Department of Labor. Part WW proposed transition provisions to govern the transfer and proposed to require both departments to adopt program rules including specified provisions such as a provision for independent assessment and reassessment of consumer eligibility and service needs by an entity selected by the respective department. It also proposed that the departments jointly review their CD-PAS programs and report to the legislative oversight committees on their review and recommendations. It proposed to specify that the report must include recommendations regarding the use of surrogates to manage personal care assistants. It also proposed that the existing department group reviewing recruitment and retention of long-term care workers include representatives of CD-PAS service providers and consumers and address issues related to consumer-directed personal care services.

Parts Q, UU, DDDD and WW were enacted as part of Public Law 2003, chapter 673.

LD 1964

An Act To Protect Forest Products, Loggers and Haulers

PUBLIC 674

Sponsor(s)
SMITH W
MARTIN

Committee Report

Amendments Adopted

LD 1964 was enacted without reference to a committee. It proposed to amend the recently-enacted law requiring a state panel, upon request, to set compensation rates for harvesters and haulers of forest products on certain lands (LD 1318, PL 2003, chapter 670). That law as enacted was limited to landowners that own or control more than 400,000 acres in a labor market area. LD 1964 proposed to add an additional limitation: the law would apply only if the land owned by that landowner constitutes more than 30% of the total land area in that labor market area. The bill also proposed to clarify that the term "person" as defined in Title 26, chapter 18 is meant to include all forms of business organization.

Enacted law summary

Public Law 2003, chapter 674 limits the applicability of the rate-setting process for forest products harvesting and hauling services created by Public Law 2003, chapter 670. (See LD 1318, PL 2003, chapter 670). The law will apply to forest landowners who own or control more than 400,000 acres in a labor market area only if the acreage owned by that landowner constitutes more than 30% of the total land area in that labor market area. It also clarifies that the term "person" in the rate-setting law includes all forms of business organization.

Joint Standing Committee on Labor

SP 673

Joint Order To Report Out a Bill Relating To Permissible Uses of Sick Leave and Establishing a Minimum Sick Leave Benefit

PASSED

Sponsor(s)
EDMONDS

Committee Report

Amendments Adopted

SP 673 was a joint order to the Joint Standing Committee on Labor to report out a bill relating to permissible uses of sick leave and establishing a minimum sick leave benefit. The committee held a public hearing on a proposal to require all employers to allow their employees to use any sick leave to which they are entitled for the purpose of taking care of an ill family member. It also proposed to require employers with 15 or more employees to grant a minimum of 3.33 hours of paid sick leave per month to employees who work at least 25 hours per week and a proportional amount of leave for employees who work fewer than 25 hours. It proposed to prohibit discrimination against employees who exercise rights under the law and specified the Department of Labor as the enforcing agency.

Following the public hearing, the committee decided not to report out legislation. Instead, some members of the committee have asked the Department of Labor to report to the committee next year on data the department is collecting that may provide additional information on the provision of paid sick leave to employees in Maine.

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